

## IDAPA 13 – DEPARTMENT OF FISH AND GAME

### 13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-1902

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, this agency hereby gives notice of proposed rulemaking. The action is authorized by Sections 36-104, 36-408, and 36-1102, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule involves two changes. It would allow Hunting Passport holders ages eight (8) through seventeen (17) to hunt turkey in general season turkey hunts, youth-only general hunts, turkey landowner permission hunts, and depredation hunts with the appropriate tag. The proposed rule also replaces references in this chapter related to requirements for the Department's stocked pheasant program; it replaces specific references to the "WMA Upland Game Bird Permit" and "Wildlife Management Areas" with more generic references, such as "Upland Game Bird Permit" and "locations where an Upland Game Bird Permit is required," to support potential expansion of the Department's pheasant stocking program to locations in addition to WMAs.

**FEE SUMMARY:** Section 36-416, Idaho Code, sets fees for license, tag and permits to hunt turkeys or stocked pheasants or to obtain a hunting passport. The proposed rule does not change these fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 52](#). The agency received 131 responses via on-line submissions during a 21-day public comment period. No commenter stated interest in negotiated rulemaking, and comments received indicated a polarity of opinion not suited to negotiation. The agency initiated proposed rulemaking.

**INCORPORATION BY REFERENCE:** Not Applicable

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jeff Knetter at (208) 334-2920. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2019.

Dated this 1st day of August, 2019.

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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-1902**  
**(Only Those Sections With Amendments Are Shown)**

**102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.**

No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. (6-30-19)T

**01. Tags.** There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission. (6-30-19)T

**02. Youth General Hunts.** ( )

**a.** Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (6-30-19)T

**b.** Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts. ( )

**03. Controlled Hunts.** A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. (6-30-19)T

**a.** Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (6-30-19)T

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (6-30-19)T

ii. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than seventy-nine (79) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (6-30-19)T

iii. Any person applying for a youth-only controlled hunt must be nine (9) to seventeen (17) years of age, provided they are ten (10) to seventeen (17) years of age during the hunt for which they are applying, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permits. (6-30-19)T

**b.** Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices office, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. Applications must comply with the following requirements: (6-30-19)T

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (6-30-19)T

ii. Only one (1) application per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (6-30-19)T

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (6-30-19)T

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (6-30-19)T

- v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (6-30-19)T
- c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (6-30-19)T
- 04. Tag Validation.** (6-30-19)T
- a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. (6-30-19)T
- b. To validate the tag and permit, the hunter must cut out and completely remove two (2) triangles on the border of the tag and permit, one (1) for the month and one (1) for the day of the kill. (6-30-19)T
- c. The tag and permit must remain attached so long as the turkey is in transit or storage. (6-30-19)T
- 05. Tag Designation.** (6-30-19)T
- a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T
- b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. The designated child or grandchild shall possess the appropriate tag for the hunt. (6-30-19)T
- c. Designation of the controlled hunt permit shall be made on a form prescribed by the Department and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (6-30-19)T
- d. Any child cannot be designated more than one (1) control hunt permit per calendar year. (6-30-19)T
- e. Designation of a controlled hunt permit shall be completed before the first opening hunt date for the permit. (6-30-19)T
- 06. Landowner Permission Tags.** Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (6-30-19)T

**103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.**

No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. (6-30-19)T

- 01. ~~WMA~~ Upland Game Bird Permit.** ~~(6-30-19)T~~ ( )
- a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid WMA Upland Game Bird Permit in possession. ~~(6-30-19)T~~ ( )
- b. Permit Limit. Each ~~WMA~~ Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ~~(6-30-19)T~~ ( )
- c. Permit Validation. Any person harvesting a pheasant where a ~~WMA~~ Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ~~(6-30-19)T~~ ( )

**02. Youth Pheasant Season.** The youth pheasant season is open only to hunters ten (10) to seventeen (17) years of age with a valid hunting license and hunting passport holders eight (8) to seventeen (17) years of age, and each youth hunter must be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (6-30-19)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. UPLAND GAME BIRD METHODS OF TAKE.**

- 01. Upland Game Birds.** No person shall take upland game birds: (6-30-19)T
- a.** With a trap, snare, net, crossbow, or firearm. (6-30-19)T
  - i.** EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, or hand-held or thrown missile; (6-30-19)T
  - ii.** or, EXCEPT, for taking forest grouse only, a crossbow may be used by a person who possesses a Disabled Persons Archery Hunting Permit or a Special Weapon Reasonable Modification Hunting Permit authorizing use of a crossbow, or by a person hunting in an area where crossbow is a lawful method of take for big game. (6-30-19)T
  - b.** From any watercraft. (6-30-19)T
  - c.** By the use or aid of any electronic call. (6-30-19)T
  - d.** By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (6-30-19)T
  - e.** When hunting on ~~Wildlife Management Areas~~ locations where ~~pheasants are stocked~~ an Upland Game Bird permit is required, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ~~(6-30-19)T~~ ( )
- 02. Wild Turkey.** In addition to the methods listed above, wild turkey may not be taken: (6-30-19)T
- a.** With lead shot exceeding BB size. (6-30-19)T
  - b.** With steel shot exceeding T size. (6-30-19)T
  - c.** By the use of dogs, except during fall hunts. (6-30-19)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. OFFICIAL SHOOTING HOURS.**

No person shall take game birds outside of official shooting hours. (6-30-19)T

**01. Migratory Game Birds and Wild Turkey.** Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. (6-30-19)T

**02. Upland Game Birds and American Crow.** Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a ~~WMA~~ Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ~~(6-30-19)T~~ ( )